



House of Representatives

General Assembly

File No. 127

January Session, 2013

Substitute House Bill No. 6399

House of Representatives, March 25, 2013

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHILDREN IN THE JUVENILE JUSTICE SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) At any proceeding
2 concerning the alleged delinquency of a child, no child shall be
3 physically restrained by the use of shackles, handcuffs or other
4 mechanical restraints prior to being adjudicated as delinquent, unless
5 the judge determines that the use of such restraints is necessary to
6 ensure the safety of the public. Nothing in this section shall be
7 construed as preventing a child from being physically restrained while
8 being transported from one place to another.

9 Sec. 2. Subsection (a) of section 46b-137 of the general statutes is
10 repealed and the following is substituted in lieu thereof (*Effective*
11 *October 1, 2013*):

12 (a) Any admission, confession or statement, written or oral, made by
13 a child under the age of sixteen to a police officer or Juvenile Court

14 official shall be inadmissible in any proceeding concerning the alleged
15 delinquency of the child, or in any criminal prosecution of the child,
16 making such admission, confession or statement unless made by such
17 child in the presence of the child's parent or parents or guardian and
18 after the parent or parents or guardian and child have been advised (1)
19 of the child's right to retain counsel, or if unable to afford counsel, to
20 have counsel appointed on the child's behalf, (2) of the child's right to
21 refuse to make any statements, and (3) that any statements the child
22 makes may be introduced into evidence against the child.

23 Sec. 3. Section 46b-146 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2013*):

25 (a) Whenever any child has been convicted as delinquent [, has been
26 adjudicated a member of a family with service needs] for the
27 commission of a serious juvenile offense or has signed a statement of
28 responsibility admitting to having committed a [delinquent act]
29 serious juvenile offense, and has subsequently been discharged from
30 the supervision of the Superior Court or from the custody of the
31 Department of Children and Families or from the care of any other
32 institution or agency to whom the child has been committed by the
33 court, such child, or the child's parent or guardian, may file a petition
34 with the Superior Court. If such court finds (1) that at least [two years
35 or, in the case of a child convicted as delinquent for the commission of
36 a serious juvenile offense,] four years have elapsed from the date of
37 such discharge, (2) that no subsequent juvenile proceeding or adult
38 criminal proceeding is pending against such child, (3) that such child
39 has not been convicted of a delinquent act that would constitute a
40 felony or misdemeanor if committed by an adult during such [two-
41 year or] four-year period, (4) that such child has not been convicted as
42 an adult of a felony or misdemeanor during such [two-year or] four-
43 year period, and (5) that such child has reached eighteen years of age,
44 the court shall order all police and court records pertaining to such
45 child to be erased. Upon the entry of such an erasure order, all
46 references including arrest, complaint, referrals, petitions, reports and
47 orders, shall be removed from all agency, official and institutional files,

48 and a finding of delinquency [or that the child was a member of a
49 family with service needs] shall be deemed never to have occurred.
50 The persons in charge of such records shall not disclose to any person
51 information pertaining to the record so erased, except that the fact of
52 such erasure may be substantiated where, in the opinion of the court, it
53 is in the best interests of such child to do so. No child who has been the
54 subject of such an erasure order shall be deemed to have been arrested
55 ab initio, within the meaning of the general statutes, with respect to
56 proceedings so erased. Copies of the erasure order shall be sent to all
57 persons, agencies, officials or institutions known to have information
58 pertaining to the delinquency [or family with service needs]
59 proceedings affecting such child. [Whenever a child is dismissed as not
60 delinquent or as not being a member of a family with service needs, all
61 police and court records pertaining to such charge shall be ordered
62 erased immediately, without the filing of a petition. Nothing in this
63 section shall prohibit the court from granting a petition to erase a
64 child's records on a showing of good cause, after a hearing, before the
65 time when such records could be erased.]

66 (b) Whenever any child has been convicted as delinquent for the
67 commission of a delinquent act other than a serious juvenile offense,
68 has been adjudicated a member of a family with service needs or has
69 signed a statement of responsibility admitting to having committed a
70 delinquent act other than a serious juvenile offense, and has
71 subsequently been discharged from the supervision of the Superior
72 Court or from the custody of the Department of Children and Families
73 or from the care of any other institution or agency to whom the child
74 has been committed by the court, and (1) at least two years have
75 elapsed from the date of such discharge, (2) no subsequent juvenile
76 proceeding or adult criminal proceeding is pending against such child,
77 (3) such child has not been convicted of a delinquent act that would
78 constitute a felony or misdemeanor if committed by an adult during
79 such two-year period, (4) such child has not been convicted as an adult
80 of a felony or misdemeanor during such two-year period, and (5) such
81 child has reached eighteen years of age, the court shall order all police
82 and court records pertaining to such child to be erased on the second

83 day of January of each year or on a date designated by the court
84 without the filing of a petition. Upon the entry of such an erasure
85 order, all references, including arrest, complaint, referrals, petitions,
86 reports and orders, shall be removed from all agency, official and
87 institutional files, and a finding of delinquency or that the child was a
88 member of a family with service needs shall be deemed never to have
89 occurred. The persons in charge of such records shall not disclose to
90 any person information pertaining to the record so erased, except that
91 the fact of such erasure may be substantiated where, in the opinion of
92 the court, it is in the best interests of such child to do so. No child who
93 has been the subject of such an erasure order shall be deemed to have
94 been arrested ab initio, within the meaning of the general statutes, with
95 respect to proceedings so erased. Copies of the erasure order shall be
96 sent to all persons, agencies, officials or institutions known to have
97 information pertaining to the delinquency or family with service needs
98 proceedings affecting such child.

99 (c) Whenever a child is dismissed as not delinquent or as not being a
100 member of a family with service needs, all police and court records
101 pertaining to such charge shall be ordered erased immediately,
102 without the filing of a petition. Nothing in this section shall prohibit
103 the court from granting a petition to erase a child's records on a
104 showing of good cause, after a hearing, before the time when such
105 records could be erased.

106 Sec. 4. (NEW) (*Effective October 1, 2013*) Any child convicted as
107 delinquent by the superior court for juvenile matters and committed to
108 the Department of Children and Families as a result of such conviction
109 and any person who is under the supervision of a juvenile probation
110 officer while on probation or under a suspended commitment to the
111 Department of Children and Families, who challenges the legality or
112 conditions of such commitment or placement by applying for a writ of
113 habeas corpus shall file such application with the superior court for
114 juvenile matters in the venue district established under section 46b-142
115 of the general statutes in which the commitment or placement was
116 ordered. Such application may be made by such child or person, or on

117 behalf of such child or person by his or her parent, guardian or
118 counsel, and shall name the Commissioner of Children and Families as
119 respondent. The determination of legality or conditions of such
120 commitment shall be made by the superior court for juvenile matters
121 in the civil session.

122 Sec. 5. Subsection (a) of section 46b-121 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective*
124 *October 1, 2013*):

125 (a) (1) Juvenile matters in the civil session include all proceedings
126 concerning uncared-for, neglected or abused children and youths
127 within this state, termination of parental rights of children committed
128 to a state agency, adoption proceedings pursuant to section 46b-129b,
129 matters concerning families with service needs, contested matters
130 involving termination of parental rights or removal of guardian
131 transferred from the Probate Court, [and] the emancipation of minors
132 and applications for a writ of habeas corpus arising from a juvenile
133 matter in the criminal session, but does not include matters of
134 guardianship and adoption or matters affecting property rights of any
135 child or youth over which the Probate Court has jurisdiction, except
136 that appeals from probate concerning adoption, termination of
137 parental rights and removal of a parent as guardian shall be included.

138 (2) Juvenile matters in the criminal session include all proceedings
139 concerning delinquent children within this state and persons eighteen
140 years of age and older who are under the supervision of a juvenile
141 probation officer while on probation or a suspended commitment to
142 the Department of Children and Families, for purposes of enforcing
143 any court orders entered as part of such probation or suspended
144 commitment.

145 Sec. 6. Section 17a-8 of the general statutes is repealed and the
146 following is substituted in lieu thereof (*Effective October 1, 2013*):

147 (a) All children and youths who are or have been committed to the
148 custody of the Commissioner of Children and Families as delinquent

149 shall remain in such custody until the earliest of the following: (1) The
150 date such commitment expires as provided by order of the Superior
151 Court, (2) the date such commitment terminates as provided by order
152 of the Superior Court, or (3) the date the child or youth attains the age
153 of twenty. Any child or youth who while placed in an institution
154 administered by the Department of Children and Families escapes
155 from such institution or any child or youth who violates the terms or
156 conditions of parole may be returned to actual custody. The request of
157 the Commissioner of Children and Families, or the commissioner's
158 designee, shall be sufficient warrant to authorize any officer of the
159 Department of Children and Families or any officer authorized by law
160 to serve criminal process within this state to return any such child or
161 youth into actual custody; and any such officer, police officer or
162 constable shall arrest and hold any such child or youth when so
163 requested, without written warrant.

164 (b) If the commissioner finds that a child or youth committed to his
165 custody as delinquent who is fourteen years of age or older cannot
166 benefit from continued school attendance or has graduated from high
167 school and if the commissioner further finds that such person may
168 benefit from part or full-time employment at some useful occupation,
169 the commissioner may place the child or youth on vocational parole,
170 under the supervision of an employee of the department. For the
171 purposes of this section, the limitations of subsection (a) of section 31-
172 23, on the employment of minors under the age of sixteen years, shall
173 not apply for the duration of such vocational parole.

174 Sec. 7. Section 51-296a of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2013*):

176 (a) The judicial authority before whom a family relations matter
177 described in subparagraph (A) of subdivision (1) of subsection (c) of
178 section 51-296 is pending shall determine eligibility for counsel for a
179 child or youth and the parents or guardian of a child or youth if they
180 are unable to afford counsel and are indigent according to the income
181 and eligibility guidelines promulgated by the Public Defender Services

182 Commission. Upon a finding that a party is unable to afford counsel
183 and is indigent according to such guidelines, the judicial authority
184 shall appoint an attorney to provide representation from a list of
185 qualified attorneys provided by the office of Chief Public Defender.

186 (b) The judicial authority before whom a juvenile matter described
187 in subparagraph (B) of subdivision (1) of subsection (c) of section 51-
188 296 is pending shall notify the office of Chief Public Defender who
189 shall assign an attorney to represent the child or youth. The judicial
190 authority shall determine eligibility for counsel for the parents or
191 guardian of the child or youth if such parents or guardian is unable to
192 afford counsel and is indigent according to the income and eligibility
193 guidelines promulgated by the Public Defender Services Commission.
194 Upon a finding that such parents or guardian is unable to afford
195 counsel and is indigent according to such guidelines, the judicial
196 authority shall notify the office of Chief Public Defender of such
197 finding, and the office of Chief Public Defender shall assign an
198 attorney to provide representation.

199 (c) For the purposes of determining eligibility for appointment of
200 counsel pursuant to subsection (a) or (b) of this section, the judicial
201 authority shall cause the parents or guardian of a child or youth to
202 complete a written statement under oath or affirmation setting forth
203 the parents' or guardian's liabilities and assets, income and sources
204 thereof, and such other information as the Public Defender Services
205 Commission designates and requires on forms adopted by the
206 commission. The judicial authority shall determine eligibility for
207 appointment of counsel in accordance with the income and eligibility
208 guidelines promulgated by the Public Defender Services Commission.

209 (d) The payment of any attorney who was appointed prior to July 1,
210 2011, to represent a child or indigent parent in any case described in
211 subparagraph (A) of subdivision (1) of subsection (c) of section 51-296
212 who continues to represent such child or parent on or after July 1,
213 2011, shall be processed through the office of Chief Public Defender
214 and paid at the rate that was in effect at the time of such appointment.

215 Sec. 8. Section 51-299 of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2013*):

217 Except in cases in which counsel has been appointed pursuant to
218 subsection (c) of section 51-296, whenever a person requesting services
219 pursuant to this chapter is under the age of eighteen years, eligibility
220 for services shall be measured in terms of the financial circumstances
221 of such person and of his parents, guardians, or those legally
222 responsible for the support of such person. The commission shall be
223 entitled to recover the reasonable cost of legal services, as determined
224 in accordance with the schedule of reasonable charges for public
225 defender services provided by the commission, from the parents,
226 guardians, trustees or those legally responsible for the support of such
227 person and the provisions of section 51-298 shall apply to such
228 persons. In so doing, it shall have the authority to require such parents,
229 guardians or other such persons as well as those persons holding
230 property in trust or otherwise for such minor or unemancipated
231 person to execute and deliver to the commission or its employees any
232 written requests or authorizations required under applicable law or
233 otherwise to provide the Chief Public Defender or those serving under
234 him with access to such records of public or private sources, otherwise
235 confidential, or any other information which may be relevant to the
236 question of eligibility or liability to the commission under this chapter.
237 The commission shall be entitled to recover the reasonable cost of legal
238 services, as determined in accordance with the schedule of reasonable
239 charges for public defender services provided by the commission, from
240 the Judicial Department in any proceeding wherein the court
241 appointed counsel over the objection of the Office of Chief Public
242 Defender, provided said office determined that the person was not
243 indigent in accordance with the income and eligibility guidelines
244 promulgated by the Public Defender Services Commission.

245 Sec. 9. Section 4-141 of the general statutes is repealed and the
246 following is substituted in lieu thereof (*Effective from passage*):

247 As used in this chapter: "Claim" means a petition for the payment or

248 refund of money by the state or for permission to sue the state; "just
249 claim" means a claim which in equity and justice the state should pay,
250 provided the state has caused damage or injury or has received a
251 benefit; "person" means any individual, firm, partnership, corporation,
252 limited liability company, association or other group, including
253 political subdivisions of the state; "state agency" includes every
254 department, division, board, office, commission, arm, agency and
255 institution of the state government, whatever its title or function; and
256 "state officers and employees" includes every person elected or
257 appointed to or employed in any office, position or post in the state
258 government, whatever such person's title, classification or function
259 and whether such person serves with or without remuneration or
260 compensation, including judges of probate courts, employees of such
261 courts and special limited conservators appointed by such courts
262 pursuant to section 17a-543a. In addition to the foregoing, "state
263 officers and employees" includes attorneys appointed as victim
264 compensation commissioners, attorneys appointed by the Public
265 Defender Services Commission as public defenders, assistant public
266 defenders or deputy assistant public defenders and attorneys
267 appointed by the court as Division of Public Defender Services
268 assigned counsel or guardians ad litem, individuals appointed by the
269 Public Defender Services Commission, or by the court, as a guardian
270 ad litem or attorney for a party in a neglect, abuse, termination of
271 parental rights, delinquency or family with service needs proceeding,
272 the Attorney General, the Deputy Attorney General and any associate
273 attorney general or assistant attorney general, any other attorneys
274 employed by any state agency, any commissioner of the Superior
275 Court hearing small claims matters or acting as a fact-finder, arbitrator
276 or magistrate or acting in any other quasi-judicial position, any person
277 appointed to a committee established by law for the purpose of
278 rendering services to the Judicial Department, including, but not
279 limited to, the Legal Specialization Screening Committee, the State-
280 Wide Grievance Committee, the Client Security Fund Committee, the
281 advisory committee appointed pursuant to section 51-81d and the
282 State Bar Examining Committee, any member of a multidisciplinary

283 team established by the Commissioner of Children and Families
 284 pursuant to section 17a-106a, and any physicians or psychologists
 285 employed by any state agency. "State officers and employees" shall not
 286 include any medical or dental intern, resident or fellow of The
 287 University of Connecticut when (1) the intern, resident or fellow is
 288 assigned to a hospital affiliated with the university through an
 289 integrated residency program, and (2) such hospital provides
 290 protection against professional liability claims in an amount and
 291 manner equivalent to that provided by the hospital to its full-time
 292 physician employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	New section
Sec. 2	October 1, 2013	46b-137(a)
Sec. 3	October 1, 2013	46b-146
Sec. 4	October 1, 2013	New section
Sec. 5	October 1, 2013	46b-121(a)
Sec. 6	October 1, 2013	17a-8
Sec. 7	October 1, 2013	51-296a
Sec. 8	October 1, 2013	51-299
Sec. 9	from passage	4-141

Statement of Legislative Commissioners:

The provisions of section 3(b) were made applicable to a delinquent act "other than a serious juvenile offense" for accuracy.

KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Judicial Dept.	GF - Cost	241,518	300,193
Pub. Defender Serv. Com.	GF - Savings	103,000	103,000
Comptroller- Fringe Benefits ¹	GF - Cost	44,908	64,867

Municipal Impact: None

Explanation

The bill results in a cost of \$241,518 in FY 14 and \$300,193 in FY 15 to the Judicial Department, \$44,908 in FY 14 and \$64,867 in FY 15 to the Office of the Comptroller for fringe benefits, and savings of \$103,000 in FY 14 and FY 15 to the Public Defender Services Commission.

The bill requires the courts to erase the juvenile record for juvenile offenders if specific conditions are met when the offender turns 18. This provision requires monitoring by the deputy clerks of the juvenile courts. The Judicial Department does not currently have the staffing to comply with this provision. It is anticipated that approximately 6,400 cases would be tracked and erased each year, requiring 3 additional clerks at a cost of \$138,518 in FY 14 and \$197,193 in FY 15 (includes OE and Equipment costs associated with new personnel).

The bill also allows for the Public Defender Services Commission (PDS) to seek reimbursement from the Judicial Department for cases in which a court appointed counsel was provided by the court over the

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 34.54% of payroll in FY 14 and FY 15.

objections of the PDS (PDS determines this based on an income eligibility requirement). This would result in a cost of approximately \$103,000 to the Judicial Department and savings to the PDS of the same amount. The estimate is based on approximately 183 delinquency cases at a rate of \$350/case and 78 child protection cases at rate of \$500/case.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 6399*****AN ACT CONCERNING CHILDREN IN THE JUVENILE JUSTICE SYSTEM.*****SUMMARY:**

This bill generally prohibits anyone from using shackles, handcuffs, or other mechanical devices to physically restrain a child alleged to be delinquent before that child has been adjudicated delinquent. The only exception is when the judge determines that such restraints are needed to ensure public safety. The bar does not apply when a child is being transported from one place to another (§ 1).

The bill prohibits any admission, confession, or statement made verbally or in writing by a child under age 16 to a police or juvenile court officer from being admissible in any criminal prosecution of the child unless (1) the child's parent or guardian is present and (2) the child and the caretaker adult have been advised of their Miranda-type rights (see BACKGROUND). Currently, this prohibition applies only to proceedings concerning the child's alleged delinquency (§ 2).

Other than for a serious juvenile offense (SJO), the bill eliminates a requirement that a child or his or her parent petition the Superior Court to have the child's record erased for (1) a delinquency conviction, (2) an adjudication as a member of a family with service needs (FWSN), or (3) a admitting to committing a delinquent act.

The bill requires writs of habeas corpus on behalf of juveniles (1) convicted of delinquent acts and (2) committed to DCF or placed on probation to be filed in the Superior Court in the judicial district where the child's placement or commitment was ordered rather than the judicial district where the child is placed or is on probation. And it provides that the civil session of the Superior Court is the proper

venue for hearing these applications.

The bill allows the DCF commissioner to place children or youths who have been under her custody in a vocational probation program if they have graduated from high school.

The bill ties eligibility for public defender services to the parent's or guardian's income as a percentage of the federal poverty level. And it entitles the Public Defender Services Commission to recover costs of providing such services to someone who is not indigent.

Finally, the bill indemnifies attorneys that the court appoints as Public Defender Services guardians ad litem (GALs) from personal liability from claims against the state in the same way it already does for attorneys appointed by The Office of Chief Public Defender as GALs (§ 9). (The bill does not make a parallel change in the statute that governs immunity of state employees, CGS § 4-165(b)(1)(A)).

EFFECTIVE DATE: October 1, 2013, except the provision concerning personal indemnification of attorneys is effective upon passage.

ERASURE OF JUVENILE DELINQUENCY RECORDS (§ 3)

Under current law, if (1) a child is convicted of a delinquent act, is adjudicated a member of a FWSN (e.g., truant), or signs an admission of committing a delinquent act and (2) the child has been discharged from the Superior Court's supervision, DCF custody, or the care of any other institution or agency to which the court has admitted the child, the child or his or her parent or guardian may petition the court to have the child's juvenile record expunged. The court must comply with the request if certain conditions exist (see BACKGROUND).

Under the bill, the court must automatically, without being petitioned, order the records for all juvenile delinquency cases, except those for SJOs, expunged on the second day of each January or on a date the court designates. Petitions are still required for SJOs' record erasures.

**HABEUS CORPUS FOR CHALLENGING PLACEMENT
CONDITIONS (§§ 4 & 5)**

The bill requires writs of habeus corpus challenging the conditions of certain delinquency related placements to be filed in the judicial district where the placement was ordered. By law, (1) any child convicted as delinquent and committed to DCF and (2) anyone who is under the supervision of a juvenile probation officer while under probation or under a suspended commitment to DCF can challenge the legality of the conditions of his or her commitment or placement by applying for a writ of habeus corpus with the Superior Court.

The bill authorizes the application to be made by the (1) convicted child or person on probation or (2) the child or person's parent, guardian, or counsel on their behalf. The application must name the DCF commissioner as the respondent. The bill provides that the determination of the legality of the conditions may be made only by the Superior Court for Juvenile Matters-Civil Session.

Current law requires writs to be filed with the Superior Court for the judicial district in which the person whose custody is in question is claimed to be illegally confined or deprived of his or her liberty. But applications made by or on behalf of an inmate or prisoner confined in a correctional facility must be made to the Superior Court for the Tolland judicial district CGS § 52-466(a)(2).

**VOCATIONAL PAROLE FOR JUVENILES WHO HAVE
GRADUATED FROM HIGH SCHOOL (§ 6)**

The bill allows the DCF commissioner to place on vocational parole under the supervision of a DCF employee a child or youth (1) committed to its custody for committing a delinquent act and (2) who has graduated from high school. Under current law, DCF may make such placements only for juveniles committed to DCF who are at least 14 years old and cannot benefit from continued school attendance. By law, committed juveniles remain in DCF custody until the (1) end of the court-ordered commitment period or (2) child or youth's 20th birthday, whichever is earlier.

PUBLIC DEFENDER SERVICES FOR INDIGENT (§ 7)

By law, the state must provide legal services and guardians ad litem (GALs) to children, youths, and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such. For indigent respondents, this obligation applies only when the matter is related to paternity or contempt. The law also requires the state to provide these services and GALs to children, youths, and indigent legal parties in all proceedings before the Superior Court for Juvenile Matters.

A judge determines eligibility for public defender services for these cases. Currently, eligibility is determined based on whether the child or youth or the child or youth's parent or guardian is unable to afford counsel. Under the bill, these individuals must also be indigent according to the income and eligibility guidelines the Public Defender Services Commission promulgates.

The current income eligibility guidelines for public defender services are based on a percentage of the federal poverty level (FPL). For example, in a delinquency matter, in a single parent household with one dependent, gross annual income currently may not exceed \$30,260 for that family to qualify for public defender services. That equates to 200% of the FPL for that family's size. (Presumably, anyone with income below these threshold amounts would be deemed indigent under the bill.)

The bill makes technical, conforming changes.

RECOVERIES OF LEGAL SERVICE COSTS (§ 8)

The bill entitles the Public Defender Services Commission to recover from the Judicial Department the reasonable cost of legal services provided by a public defender in any proceeding where (1) a court has appointed counsel over the objections of the Office of the Chief Public Defender (OCPD) and (2) OCPD determined that the person was not indigent in accordance with the OCPD income and eligibility guidelines. The amount recovered is based on the schedule of

reasonable charges for public defender services.

BACKGROUND

Inadmissibility of Confessions Unless Rights Advised

The law generally prohibits the admission of confessions made by children under age 16 unless they, and their parent or guardian, have been advised (1) of the right to retain counsel, (2) of the child's right to refuse to make a statement, and (3) that any statements the child makes can be used against him or her.

Conditions for Records Erasure

For the court to erase a juvenile's record, the following conditions must exist:

1. at least two (four for SJOs) years must have elapsed since the child was discharged,
2. no subsequent juvenile proceeding or adult criminal proceeding is pending against the child,
3. the child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during the two- (or four-) year period,
4. the child has not been convicted as an adult of a felony or misdemeanor during this period, and
5. the child has reached adulthood.

Family with Service Needs (FWSN)

A family with service needs is a family that includes a child who is at least age seven and under age 18 and who (1) has, without just cause, run away from home; (2) is beyond the control of his or her parent or other guardian; (3) has engaged in indecent or immoral conduct; (4) is truant or habitually truant or who, while in school, continuously and overtly defies school rules and regulations; or (5) is age 13 or older and is sexually active with someone who is at least age

13 but under age 16.

COMMITTEE ACTION

Children Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/07/2013)